

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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CALVIN THOMAS KING,

Petitioner,

Case No. 17-cv-5346 (JNE/LIB)

v.

ORDER

STATE OF MINNESOTA and  
COUNTY OF HENNEPIN,

Respondents.

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This matter is before the Court on a Report and Recommendation (“R&R”) issued by United States Magistrate Judge Franklin L. Noel on April 11, 2018. The R&R recommends that Calvin Thomas King’s petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 be dismissed and that various related motions be denied. King filed timely objections to the R&R. The Court has conducted a *de novo* review pursuant to D. Minn. L.R. 72.2(b). Based on that review, and for the reasons set forth below, the Court adopts the R&R.

The R&R recommends dismissing the petition because King failed to exhaust all available state court remedies for his claims. King does not appear to object to this recommendation. Nonetheless, the available record suggests that King has not exhausted his state court options. Accordingly, the Court accepts the R&R’s disposition as to dismissal for failure to exhaust. *See O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). The

R&R also recommends denying King's application to proceed *in forma pauperis*. King does not object to that recommendation. Nor does he object to the recommendations that his miscellaneous motions at ECF Nos. 9 and 10 be denied. The Court accepts those recommendations for the reasons set forth in the R&R. Lastly, because King has not shown that reasonable jurists would find the Court's disposition in this matter to be debatable or wrong, he will not be granted a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Accordingly, based on the Report and Recommendation, as well as all of the files, records and proceedings herein, IT IS HEREBY ORDERED that:

1. This matter is DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies.
2. The application to proceed *in forma pauperis* [ECF No. 7] is DENIED.
3. The motion for an order [ECF No. 9] is DENIED.
4. The motion to correct the docket [ECF No. 10] is DENIED.
5. A certificate of appealability is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 7, 2018

**s/ Joan N. Ericksen**  
JOAN N. ERICKSEN  
United States District Judge